REMARKS/ARGUMENTS

In paragraph (2.) of the Office Action, claims 42-48 were rejected under 35 U.S.C. 112, second paragraph as being incomplete for the omission of the fourth power supply (claim 42). This ground of rejection is courteously traversed as it applies to the claims now presented for further examination.

Claim 42 has been corrected by identifying in Fig. 4 a fourth power supply (VS4), as pointed out by Examiner Wilkins. Page 15 of the specification also has been amended to delete the incorrect language "(not shown)", in view of the fact that Fig. 4 does illustrate a fourth power supply (VS4). Claim 42 incorrectly identified VS3 as the high DC voltage power supply when, in fact, VS4 is the high voltage supply (1000 volts DC as described at page 15). This is quite apparent from page 15 and claim 42, as originally filed. In particular, page 15 of the specification, Fig. 4 *per se* and original claim 42 collectively provide good basis for the amendment of claim 42 and page 15 of the specification, all without the introduction of prohibited new matter.

Accordingly, reconsideration and withdrawal of the rejection of claims 42-48 under 35 U.S.C. 112, second paragraph are courteously solicited.

Claims 42-48 were also objected to in Section 5 of the Office Action, but would be found allowable if the above rejection under 35 U.S.C. 112, was overcome. In this regard, the informality of claim 42 (also claim 45) was corrected, and so claims 42-48 should now be in condition for allowance. Notification of the same is courteously requested.

At section (4.) of the Office Action, claim 28 alone was rejected under 35 U.S.C. 103(a) as being unpatentable over Pons et al (WO 90/10935) in view of Spaepen et al (US Pat. 3,944,473). This ground of rejection is courteously traversed.

Applicants maintain the WIPO publication (Pons et al) does not qualify as prior art relative to the instant application, which has an **effective filing date** of October 10, 1989, under 35 U.S.C. 120. The subject Application relates back to US S/N 419,371, filed October 10, 1989,

Under revised 35 U.S.C. 102(e), an International filing date which is on or after November 29, 2000, qualifies the application as prior art. While Pons et al did designate the US in its International application, and the application was published in English, Pons

et al do not qualify as prior art as of its filing date or priority date because Pons et al was filed well before November 29, 2000.

International applications filed **prior** to November 29, 2000, like Pons et al, may not be used to reach back (bridge) to an earlier filing date through a priority or benefit claim for prior art purposes under 35 U.S.C. 102(e). See MPEP 706.02(a) at page 700-23 (*eighth edition*). **Hence, Pons et al became prior art no earlier than their actual publication date of September 20, 1990.** This date does not predate Applicants effective filing date of October 29, 1989. Consequently, Pons et al is not competent prior art relative to the instant application.

Spaepen et al (US Pat. 3,944,473) alone do not make out a *prima facia* case of obviousness under 35 U.S.C. 103(a). In this regard, Spaepen et al do not teach the use of hydrogen storage cathodes or the electrolysis of water for making hydrogen at the cathode and oxygen at the anode. The objective of Spaepen et al is to conduct oxidation reactions electrochemically at the anode, but not with water. Reactions conducted by Spaepen et al include the oxidation of methanol, hydrogen and ammonia using superimposed pulsed voltages which reactions do not lead to the production of oxygen at the anode according to Applicants' invention.

Consequently, the rejection of claim 28 under 35 U.S.C. 103(a) over Pons et al in view of Spaepen et al cannot stand.

The failure to give patentable weight to the subject matter of claims 29-30 and 33-41 is incorrect. The failure to apply art in rejecting the claims should result in the allowance of the rejected claims.

Reconsideration and allowance of claims 29-30 and 33-41 are courteously requested.

In view of the correction of the informality of claim 42, and the fact that Pons et al is not prior art for purposes of the instant application, the application should now be in

condition for allowance. Notification of the same at an early date is earnestly solicited.

Respectfully submitted,

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